

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RICHARD HOLLAND,

Petitioner,

-against-

DEP. DUKES, Acting Superintendent,

Respondent.

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ORDER

05-CV-5673 (DRH)

APPEARANCES:

For Petitioner:
Richard Holland, Pro Se
Hudson Correctional Facility
No. 01A2631/97R62
PO Box 576
Hudson, New York 12534-0576

HURLEY, District Judge:

Petitioner Richard Holland (“Petitioner”) brings this petition challenging his custody pursuant to a judgment of conviction entered on March 19, 2001, before the County Court, Suffolk County. As set forth below, the Court cannot consider the instant petition and transfers it to the United States Court of Appeals for the Second Circuit.

By Memorandum of Decision and Order dated October 26, 2005, the Court denied Petitioner’s prior petition under 28 U.S.C. § 2254 challenging the same conviction. The Antiterrorism and Effective Death Penalty Act of 1996 “allocates jurisdiction to the courts of appeals, not the district courts, to authorize successive habeas motions or applications.” *Torres v. Senkowski*, 316 F.3d 147, 151 (2d Cir. 2003); 28 U.S.C. § 2244(b)(3)(A). Therefore, Petitioner must move in the United States Court of Appeals for the Second Circuit for permission to pursue this successive petition for habeas corpus relief. *Id.*

Accordingly, in the interest of justice, the Clerk of Court shall transfer this petition to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 1631. This order closes this case. If the Circuit authorizes Petitioner to proceed in this matter, Petitioner shall move to reopen under this docket number.

Dated: Central Islip New York
December 29, 2005

SO ORDERED.

/s _____
Denis R. Hurley,
United States District Judge